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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN -- SOUTHERN DIVISION

PAULA PELTAN ,

Plaintiff,

-VS-

Case: 2:07-cv-14591
Assigned To: Feikens, John
Referral Judge: Whalen, R. Steven
Filed: 10-26-2007 At 03:54 PM
CMP PELTAN V AMERICAN CREDIT ASSOC
LLC, ET AL (EW)

AMERICAN CREDIT ASSOCIATION LLC and
PHILLIPS & BURNS, LLC,

Defendants.

COMPLAINT & JURY DEMAND

Jurisdiction

1. This court has federal question jurisdiction under the Fair Debt Collection Practices Act, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331, 1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

Parties

3. The Plaintiff to this lawsuit resides in Centerline, Michigan in Macomb County.
4. PHILLIPS & BURNS, LLC, ("Phillips & Burns") is a corporation doing business in Michigan and whose resident agent is CSC-LAWYERS INCORPORATING SERVICE (COMPANY), 601 ABBOTT ROAD, EAST LANSING, MI 48823.

5. AMERICAN CREDIT ASSOCIATION LLC ("American Credit Association") is a corporation doing business in Michigan and whose resident agent is LOREN ZEIDMAN, 33045 HAMILTON CT W 100, FARMINGTON HILLS, MI 48334.

Venue

6. The transactions and occurrences which give rise to this action occurred in Macomb County.
7. Venue is proper in the Eastern District of Michigan.

General Allegations – Phillips & Burns

8. Prior to October 16, 2007, Phillips & Burns contacted the Plaintiff by phone.
9. Phillips & Burns never sent Plaintiff a notice under 15 U.S.C. § 1692g.
10. On October 16, 2007, Plaintiff received a phone message from Phillips & Burns.
11. The agent for Phillips & Burns was identified as being from, "the firm of Phillips & Burns" with "legal claims processing" and "with the county court."
12. The agent for Phillips & Burns left a "case number."
13. No notice was given under 15 U.S.C. § 1692e(11) during this message.
14. Later that day, Plaintiff was in direct phone contact with Phillips & Burns and this Defendant informed Plaintiff that it was, ". . .preparing legal documentation that needed to be filed."
15. During this communication, Phillips & Burns informed the Plaintiff that she was being charged 30% interest.
16. Phillips & Burns informed the Plaintiff that it would stop harassing her if she paid in full by October 29th, 2007.
17. At that point, Plaintiff then spoke with "Frank Torres" who claimed he was the pre-legal claim manager."

18. Phillips & Burns claimed that he sent a litigation letter to indicate that Phillips & Burns was filing a case with the county court.
19. Phillips & Burns claimed that Phillips & Burns was suing the Plaintiff and that she would receive a summons within 10 -15 days.
20. Phillips & Burns claimed that Citifinancial had hired Phillips & Burns to represent it in a "litigation case."
21. Phillips & Burns claimed that a lawsuit had been filed against the Plaintiff in Macomb County.
22. Phillips & Burns attempted to solicit a post-dated check from the Plaintiff.
23. Phillips & Burns claimed that it had already ordered the lawsuit to be filed and that Plaintiff would be served within 24 - 48 hours.
24. No notice was given under 15 U.S.C. § 1692e(11) during this phone call.
25. The actions of the Defendant Phillips & Burns were, *inter alia*, deceptive, false, harassing, illegal and abusive.

General Allegations – American Credit Association

26. Within one year prior to the filing of this complaint, American Credit Association called the Plaintiff and told her she falsely that was being sued.
27. Recently, Plaintiff received a message from a Mr. Anthony from "ACA".
28. "ACA" is not the true name of the Defendant.
29. No notice was given under 15 U.S.C. § 1692e(11) during this message.
30. American Credit Association attempted collecting amounts not due by law or contract.
31. The actions of the Defendant Phillips & Burns were, *inter alia*, deceptive, false, harassing, illegal and abusive.

COUNT I – Fair Debt Collection Practices Act (Phillips & Burns)

32. Ms. Peltan incorporates the preceding allegations by reference.
33. At all relevant times Phillips & Burns – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
34. Phillips & Burns is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
35. Phillips & Burns 's foregoing acts in attempting to collect this alleged debt against Ms. Peltan constitute violations of the FDCPA.
36. Ms. Peltan has suffered damages as a result of these violations of the FDCPA.

COUNT II – Michigan Occupational Code (Phillips & Burns)

37. Ms. Peltan incorporates the preceding allegations by reference.
38. Phillips & Burns is a "collection agency" as that term is defined in the Michigan Occupational Code, M.C.L. § 339.901(b).
39. Ms. Peltan is a debtor as that term is defined in M.C.L. § 339.901(f).
40. Phillips & Burns 's foregoing acts in attempting to collect this alleged debt against Ms. Peltan constitute violations of the Occupational Code.
41. Ms. Peltan has suffered damages as a result of these violations of the Michigan Occupational Code.

COUNT III – Intentional Infliction of Emotional Distress (Phillips & Burns)

42. Ms. Peltan incorporates the preceding allegations by reference.
43. Phillips & Burns intentionally acted with malice and with the knowledge that its illegal acts would create undue emotional distress.
44. Phillips & Burns' intentional acts did cause undue emotional distress in the Plaintiff.

45. Plaintiff has suffered damages as a result of this intentional infliction of emotional distress.

COUNT IV – Fair Debt Collection Practices Act (American Credit Association)

46. Ms. Peltan incorporates the preceding allegations by reference.

47. At all relevant times American Credit Association – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.

48. American Credit Association is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

49. American Credit Association 's foregoing acts in attempting to collect this alleged debt against Ms. Peltan constitute violations of the FDCPA.

50. Ms. Peltan has suffered damages as a result of these violations of the FDCPA.

COUNT V – Michigan Occupational Code (American Credit Association)

51. Ms. Peltan incorporates the preceding allegations by reference.

52. American Credit Association is a "collection agency" as that term is defined in the Michigan Occupational Code, M.C.L. § 339.901(b).

53. Ms. Peltan is a debtor as that term is defined in M.C.L. § 339.901(f).

54. American Credit Association 's foregoing acts in attempting to collect this alleged debt against Ms. Peltan constitute violations of the Occupational Code.

55. Ms. Peltan has suffered damages as a result of these violations of the Michigan Occupational Code.

COUNT VI – Intentional Infliction of Emotional Distress (American Credit Association)

56. Ms. Peltan incorporates the preceding allegations by reference.

57. American Credit Association intentionally acted with malice and with the knowledge that its illegal acts would create undue emotional distress.

58. American Credit Association' intentional acts did cause undue emotional distress in the Plaintiff.
59. Plaintiff has suffered damages as a result of this intentional infliction of emotional distress.

Demand for Jury Trial

60. Plaintiff demands trial by jury in this action.

Demand For Judgment for Relief

ACCORDINGLY, Ms. Peltan requests that the Court:

- a. Assume jurisdiction over all claims;.*
- b. Award actual damages.*
- c. Award statutory damages.*
- d. Award punitive damages.*
- e. Award statutory costs and attorney fees.*

Respectfully Submitted,

ADAM G. TAUB & ASSOCIATES
CONSUMER LAW GROUP, PLLC

By: 

Adam G. Taub (P48703)
Attorney for Paula Peltan
18930 West 10 Mile Rd. Suite 2500
Southfield, MI 48075
(248) 746-3790
adamgtaub@clgplc.net

Dated: October 26, 2007

CIVIL COVER SHEET

County in which this action arose MACOMB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

ORIGINAL

I. (a) PLAINTIFFS

PAULA PELTAN

DEFENDANTS

AMERICAN CREDIT ASSOCIATION LLC, PHILLIPS & BURNS LLC

(b) County of Residence of First Listed Plaintiff MACOMB

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Adam G Taub & Associates Consumer Law Group, PLC
18930 W Ten Mile Road - Ste 2500, Southfield, MI 47075-2629
(248) 746-3790

II. BASIS OF JURISDICTION (Select One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CASE

Case: 2:07-cv-14591

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Referral Judge: Whalen, R. Steven

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if
endant)
DEF
4 ☐ 4

5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3 Foreign Nation☐ 6 ☐ 6

IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Select One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1692

Brief description of cause:

The above named defendants have violated the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

ORIGINAL

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
